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**Subcommittee on Decision of the National People's Congress on Improving
the Electoral System of the Hong Kong Special Administrative Region**

**Minutes of the third meeting
held on Thursday, 1 April 2021, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon Martin LIAO Cheung-kong, GBS, JP (Chairman)
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Paul TSE Wai-chun, JP
Hon Frankie YICK Chi-ming, SBS, JP
Hon MA Fung-kwok, GBS, JP
Hon Alice MAK Mei-kuen, BBS, JP
Ir Dr Hon LO Wai-kwok, SBS, MH, JP
Hon Wilson OR Chong-shing, MH
Dr Hon CHENG Chung-tai
- Member absent** : Hon Mrs Regina IP LAU Suk-ye, GBS, JP
- Public Officers attending** : Mr Erick TSANG Kwok-wai, IDSM, JP
Secretary for Constitutional and Mainland Affairs
- Mr Roy TANG Yun-kwong, JP
Permanent Secretary for Constitutional and Mainland Affairs
- Mr Kenneth NG King-tsun
Political Assistant to Secretary for Constitutional and Mainland
Affairs
- Mr Llewellyn MUI Kei-fat
Law Officer (Special Duties)(Acting)
Department of Justice

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (4) 7

Staff in attendance : Mr Bonny LOO
Senior Assistant Legal Adviser 3

Mr Dennis HO
Senior Council Secretary (4) 7 (Acting)

Ms Louisa YU
Legislative Assistant (4) 7

Action

I. Meeting with the Administration

[LC Paper Nos. CB(4)703/20-21(01) and CB(4)679/20-21(01) and (02)]

The Subcommittee deliberated (index of proceedings attached at **Annex**).

2. Members continued to discuss the amended Annexes I and II to the Basic Law. The major views and concerns raised by members are set out in the ensuing paragraphs.

(At 3:32 pm, the Deputy Chairman took the chair in the temporary absence of the Chairman. The Chairman resumed the chair at 3:42 pm.)

Discussion

The reconstituted Election Committee ("EC")

3. Mr MA Fung-kwok noted that under the reconstituted EC, the previous Education and Higher Education subsectors were merged and the previous Medical and Health Services subsectors were merged, too. Besides, the number of seats for the Sports, Performing Arts, Culture and Publication ("SPCP") Subsector as well as the Social Welfare Subsector would both be reduced from 60 to 30 seats. He considered that the Administration should explain the above substantial changes to the subsectors concerned. In particular, he expressed grave concerns about the changes to the SPCP Subsector and requested the Administration to explain how the 30 seats would be distributed amongst the four industries in that Subsector. He further expressed concerns that 15 members of the SPCP Subsector would be nominated by 3 eligible bodies none of which belonged to the performing arts industry. He expressed worry that the performing arts industry could end up with no representatives.

4. Members in general also expressed concerns about the criteria for selecting the corporate voters in new subsectors, including the subsectors of "Representatives of Associations of Hong Kong Residents in the Mainland" (27 seats), "Associations of Chinese Fellow Townsmen" (60 seats) and "Representatives of Hong Kong Members of Relevant National Organizations" (110 seats).

5. The Secretary for Constitutional and Mainland Affairs ("SCMA") explained that the reconstituted EC would be broadly representative, and its composition could best demonstrate the balanced and orderly political participation of society, serving the overall interests of Hong Kong. He stressed that improving the electoral system was conducive to the progress of the "one country, two systems" principle and could ensure the long-term prosperity and stability of Hong Kong. SCMA said that to this end, various new subsectors had been added. However, as there were limited number of seats in EC, it was inevitable that some subsectors would lose some seats or be merged with other subsectors.

6. SCMA said that the corporate electors for subsectors would be decided based on three criteria – the representativeness and relevance of the associations among the community and their adherence to the principle of "patriots administering Hong Kong". In line with the established practice, the advice of the relevant bureaux and departments would also be sought in considering whether individual bodies fulfilled such criteria.

7. Mr Wilson OR suggested that voters of the Chinese Medicine Subsector be included in the Medical and Health Services functional constituency ("FC") in recognition of the role played by Chinese medicine in the healthcare services in Hong Kong. While welcoming the introduction of the new Small and Medium Enterprises ("SMEs") Subsector, Dr Priscilla LEUNG requested the Administration to consider that the estate agents, beauty and hairdressing, security, cleaning, and property management sectors, as well as ethnic minorities and overseas returnees in Hong Kong also be represented in EC.

8. SCMA said that the Administration would duly consider members' suggestions. He added that the introduction of the new SMEs Subsector, which covered almost half of private sector employees in Hong Kong, would also contribute to making the reconstituted EC broadly representative, suited to Hong Kong's actual situation and representative of the overall interests of society.

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9. Dr CHENG Chung-tai said that, if the Hong Kong and Kowloon District Council ("DC") Subsector (57 seats) and the New Territories DC Subsector (60 seats) were to be abolished, he did not see why the Area Committees, District Fight Crime Committees, and District Fire Safety Committees, which were also "district organizations which are not organs of political power" established under Article 97 of the Basic Law, should be represented in EC. SCMA explained that district organizations were important bodies in reflecting district opinions to the Government, and district organizations were not restricted to DCs only. SCMA pointed out that as DCs had become politically-driven and lost their functions in recent years, the Government had to replace them with other district organizations in EC such that views and opinions formed at the district level could be properly reflected.

10. In reply to members' enquiries, SCMA confirmed that any eligible elector could be nominated as candidates for the EC constituency in a LegCo election. In other words, these candidates did not have to be members of EC. In response to Mr Tommy CHEUNG's enquiry, SCMA confirmed that taking into account the principle of board representativeness, the electorate of EC elections would generally no longer contain individual voters.

11. Ir Dr LO Wai-kwok said that under the reconstituted EC, an ex-officio member was basically the person-in-charge of an organization or association which was representative of the respective profession. He asked whether a person's ex-officio membership in EC could be retained if he was no longer the person-in-charge of the organization or association concerned. SCMA replied that in that case, the person would no longer be eligible to be registered as an ex-officio member of EC and would be deemed to have resigned from EC. His/her name would also be removed from the EC registers. The new person-in-charge should submit registration form to the Registration and Electoral Office ("REO") to register as the ex-officio member of EC.

12. Ir Dr LO Wai-kwok enquired how to deal with the issue of multiple capacities if a Hong Kong Special Administrative Region ("HKSAR") deputy to the National People's Congress ("NPC") or an HKSAR member of the National Committee of the Chinese People's Political Consultative Conference ("CPPCC") was also an ex-officio member of another EC subsector. SCMA advised that to make good use of available seats, a HKSAR deputy to NPC or a HKSAR member of National Committee of CPPCC who also held a specified office (and hence eligible to be registered as an ex-officio member) in another subsector, that deputy/member should first register as an ex-officio member in the other subsector. He added that if an HKSAR deputy to NPC or an HKSAR member of the National Committee of CPPCC was an ex-officio member of multiple subsectors in the Second and Fourth Sectors, he/she could choose freely which subsector to register as an ex-officio member.

13. The Permanent Secretary for Constitutional and Mainland Affairs ("PSCMA") supplemented that an HKSAR deputy to NPC or an HKSAR member of the National Committee of CPPCC might choose to register as an EC member in a subsector (other than one in the Fifth Sector) with which he or she had a substantial connection. In these cases, the number of ex-officio members in that subsector would then be increased and the number of seats to be returned by the subsector by election would be reduced accordingly. Within the term of office of EC, the number of ex-officio members, and members to be returned by nomination or election for each subsector should remain unchanged.

14. Members sought details of the new system of convenors for EC. They asked how and under what circumstances the new system of EC convenors might be activated and when these convenors would be designated. SCMA explained that the new system of convenors for EC would be activated under exceptional circumstances upon seeking advice from the Central Authorities as necessary to handle matters relevant to elections. Specific details on the operation of the new system were not yet available at this juncture, and the operation of the new system would not be covered in the proposed amendments to the local electoral legislation. He undertook to provide more details to members on the operation of the new system once these details became available at a later stage.

The Candidate Eligibility Review Committee ("CERC")

15. Noting that "no legal proceedings may be instituted in respect of a decision made by CERC on the eligibility of a candidate pursuant to the opinion of the Committee for Safeguarding National Security of the HKSAR" under the amended Annex I and Annex II to the Basic Law, Mr Wilson OR asked whether the candidate concerned would still be given an opportunity to defend as a matter of procedural fairness. PSCMA explained that in the situation where CERC made its decision based on national security reasons, CERC would only state in the nomination form that its decision was based on the opinion of the Committee for Safeguarding National Security. SCMA advised that that all candidates for Legislative Council ("LegCo") elections must be reviewed by CERC.

16. In response to Mr Wilson OR's enquiry, SCMA said that the existing post-office employment control of politically appointed officials and senior civil servants would apply to CERC members as appropriate.

Arrangements and voter registration ("VR") for upcoming elections

17. Members raised concern as to whether REO had sufficient manpower to conduct the upcoming EC Subsector Elections and LegCo General Election. Members also noted that the 2021 VR campaign for EC and LegCo elections was bound to be affected by the reconstitution of EC and LegCo. They called on the Administration to consider reopening VR for both elections. They stressed that the Administration should allow adequate time for application for VR. SCMA said that the deadline for new VR applications was 2 May 2021. Subject to the passage of the Improving Electoral System (Consolidated Amendments) Bill 2021 ("the Bill") towards the end of May 2021, suitable publicity would be mounted in June 2021 such that existing electors/voters who were affected by changes introduced by the Bill or those who became eligible electors/voters for new subsectors/FCs would be made aware of the VR procedures and apply for registration.

18. SCMA and PSCMA advised that in light of the tight timetable for improving the electoral system and holding the aforementioned elections, the Constitutional and Mainland Affairs Bureau would work closely with the Electoral Affairs Commission and REO to ensure that these elections would be conducted in an open, fair and honest manner. Given limited time, the Administration would finish compiling and disseminating the registers of electors for EC between June and July 2021 and for geographical constituencies ("GC") and FC of LegCo between September and October 2021 respectively. To cope with the heavy workload, on top of REO's staffing establishment, temporary staff would be deployed to assist with tasks relating to VR and the elections. Contingency plans would be worked out to handle situations which might arise due to the COVID-19 pandemic.

19. Members enquired about the procedures for making objections in respect of eligibility for VR. PSCMA advised that generally speaking, any person might lodge with REO objections as regards entries in the provisional register of an EC subsector/FC. These objection cases would be referred to the Revising Officer, who would be a judicial officer, for consideration and ruling. The Administration was now seeking to make special arrangement in the 2021 VR cycle given the tight timetable such that the cases would be considered and ruled on the basis of written submissions instead of going through a court hearing procedure. Notwithstanding the above objections mechanism, the eligibilities of certain corporate voters/electors of some EC subsectors/FCs (including the Transport EC Subsector/FC) had been specified by being named in the relevant schedules to the Legislative Council Ordinance (Cap. 542) and the Chief Executive Election Ordinance (Cap. 569). If these schedules were to be amended, it could only be effected by way of subsidiary legislation subject to the negative vetting procedure of LegCo.

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20. In response to the Deputy Chairman's enquiry, SCMA advised that in August 2020, the Standing Committee of NPC decided that the Sixth LegCo was to continue performing its duties after 30 September 2020 for no less than one year. With the postponement of the General Election for the Seventh LegCo to December 2021, if the next LegCo term started on 1 January 2022, the term would last for four years in accordance with Article 69 of the Basic Law, and commencement dates of subsequent LegCo terms would be moved to the first of January accordingly.

Voting procedures

21. Dr CHENG Chung-tai sought explanation on the revised split voting system as per the amended Annex II to the Basic Law. He expressed worry that with the new split voting procedures in LegCo, there would practically be no room even for Members' motions to express views on issues relating to people's livelihood to be passed in LegCo.

22. SCMA explained that under the new split voting system, the passage of motions, bills or amendments to government bills introduced by individual LegCo Members shall require a simple majority of votes of each of the two groups of Members present, the first group being Members returned by EC, and the second group being Members returned by FCs and GCs through direct elections. It was envisioned that LegCo Members returned by EC would represent the overall interests of Hong Kong transcending sectoral interests represented by Members returned by FCs and local interests represented by Members returned by GCs. There was no reason to believe that LegCo Members returned by EC would not voice their opinions on issues relating to people's livelihood.

23. Members noted that the next meeting would be held on Thursday, 8 April 2021, at 8:30 am.

II. Any other business

24. There being no other business, the meeting ended at 4:26 pm.

**Proceedings of the third meeting of the
Subcommittee on Decision of the National People's Congress on Improving the
Electoral System of the Hong Kong Special Administrative Region
on Thursday, 1 April 2021, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time Marker	Speaker(s)	Subject(s)	Action required
000408 - 000500	Chairman	Opening remarks	
000501 - 001004	Chairman Deputy Chairman Administration	Concerns on the commencement dates of subsequent Legislative Council ("LegCo") terms after amending the election date for the 2021 LegCo General Election stipulated in the Emergency (Date of General Election) (Seventh Term of the Legislative Council) Regulation (Cap. 241L)	
001005 - 001603	Chairman Mr MA Fung-kwok Administration	Concerns on the changes to the Sports, Performing Arts, Culture and Publication ("SPCP") Subsector	
001604 - 002027	Chairman Mr Wilson OR Administration	Concerns on the Candidate Eligibility Review Committee ("CERC") and the post-office employment control that would be applied to CERC members	
002028 - 002742	Chairman Ir Dr LO Wai-kwok Administration	Discussion on issues relating to the ex-officio members of the Election Committee ("EC")	
002743 - 003935	Chairman Mr CHAN Hak-kan Mr Tommy CHEUNG Administration	Concerns on the manpower of the Registration and Electoral Office and revisions to the regular voter registration ("VR") process	
003936 - 004506	Chairman Mr Frankie YICK Administration	Enquiries on the eligibility criteria for registration as corporate voters/electors for certain EC subsectors/functional constituencies ("FCs") of LegCo	

Time Marker	Speaker(s)	Subject(s)	Action required
004507 - 005249	Chairman Dr CHENG Chung-tai Administration	Discussion on the rationale for the inclusion of the Representatives of Members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of Hong Kong Island and Kowloon Subsector as well as the Representatives of Members of Area Committees, District Fight Crime Committees, and District Fire Safety Committees of the New Territories Subsector in the reconstituted EC	
005250 - 010339	Chairman Ms Alice MAK Administration	Enquiries about the establishment of a system of convenors for EC and the selection criteria of individual/corporate voters for the Representatives of Hong Kong Members of Relevant National Organizations Subsector and the Representatives of Associations of Hong Kong Residents in the Mainland Subsector	
010340 - 010942	Chairman Mr Paul TSE Deputy Chairman Administration	Concerns on the system of convenors for EC and special VR arrangements	
010943 - 011535	Deputy Chairman Dr Priscilla LEUNG Administration	Expression of support for the introduction of the new Small and Medium Enterprises Subsector and related suggestions	
011536 - 012149	Deputy Chairman Mr MA Fung-kwok Chairman Administration	Concerns on the changes to composition of the SPCP Subsector	
012150 - 012655	Chairman Mr Tommy CHEUNG Administration	Concerns on the changes to the electorate of the Catering Subsector/FC	
012656 - 013207	Chairman Dr CHENG Chung-tai Administration	Expression of views on the new procedures for voting on bills and motions in LegCo and enquiries on the delineation of LegCo geographical constituencies boundaries	
013208 - 013727	Chairman Ms Alice MAK Administration	Expression of views on the representativeness of Areas Committees, District Fight Crime Committees and District Fire Safety Committees in the reconstituted EC and enquiries on the three upcoming public elections	

Time Marker	Speaker(s)	Subject(s)	Action required
013728 - 014323	Chairman Mr Wilson OR Administration	Concerns on the criteria for selecting the corporate voters for the Representatives of Associations of Hong Kong Residents in the Mainland Subsector, the Associations of Chinese Fellow Townsmen Subsector, and the individual voters for the Representatives of Hong Kong Members of Relevant National Organizations Subsector Suggestion that the new Medical and Health Services FC should include representatives of the Chinese medicine sector	
014324 - 015406	Chairman Dr Priscilla LEUNG Administration	Concerns about the nomination process for certain EC subsectors	
015407 - 015922	Chairman Mr Paul TSE Administration	Enquiry about the nationality requirement for becoming LegCo EC constituency candidates	
015923 - 020010	Chairman Members	Date of next meeting and closing remarks	

Council Business Division 4
Legislative Council Secretariat
12 July 2021